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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,347	02/19/2002	Christopher J. Tatar	FS-00689	1368
7055	7590	04/21/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C.			SHARMA, RASHMI K	
1950 ROLAND CLARKE PLACE			ART UNIT	
RESTON, VA 20191			PAPER NUMBER	

3651

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/076,347

Applicant(s)

TATAR ET AL.

Examiner

Rashmi K. Sharma

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 14-16 and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Bonnet (U.S. Patent number 6,189,702).

Bonnet discloses an apparatus and method for diverting packages comprising a frame member (30, 32) having an entrance and a plurality of exits (15, 13, 16) adapted for use with an existing conveyor system (12, 15) for transporting an item in an original direction, a movable bi-directional diverting mechanism (see Figure 1) extending from the frame member (30, 32), the movable diverting mechanism movable perpendicularly to the original direction of travel of the item being transported on the conveyor (12, 15) and diverting the item in either a first direction or a second opposing direction with respect to the first direction, the movable diverting mechanism includes a downward extending movable blade mechanism (100) extending from the frame member (30, 32) to divert the item in either the first direction or the second opposing direction, the movable diverting mechanism remains stationary so that the item can pass

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therethrough (please read column 10 lines 45-55), the blade mechanism (100) having first and second surfaces adapted for diverting the item and a longitudinal axis whereby the first and second surfaces face opposing directions or exits substantially perpendicularly to the original direction of travel of the item and the longitudinal axis is substantially parallel to the original direction of travel of the item and extending in a direction between the entrance and another of the exits, a moving mechanism including an actuator (42) and a glide mechanism (40) coupled to the blade mechanism (100) whereby the glide mechanism (40) extends across a frame member (30, 32) for moving the movable diverting mechanism between opposing exits (15, 13, 16) of the plurality of exits, further comprising a frame member (46) of the frame (30, 32) and a mounting mechanism (49) of the movable diverting mechanism, a plurality or series of sensors (see Figures 8 and 9) for monitoring or controlling actions of the downward extending movable blade member (100), the sensors (208) including a home sensor (please read column 10 lines 35-67) for detecting a home position (R1) and a second or new home position (R2) of the movable diverting mechanism, at least one travel sensor (204) for detecting an over travel position of the movable diverting mechanism, at least one photosensor (202) for detecting a flow of the items, an over current sensor for determining whether a current associated with the actuator (42) exceeds a threshold limit (please read column 11 lines 37-67 and column 12 lines 1-47) and momentary contacts (212, 210) which provide an input signal to control the movement of the movable diverting mechanism. Bonnet also includes the method of diverting an item based on the control system and structural limitations discussed above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet (U.S. Patent number 6,189,702) in view of Torbet et al. (U.S. Patent number 3,246,733).

Bonnet as disclosed above, fails to show hoods.

Torbet et al. does disclose a hood (26) having openings whereby the hoods are positioned at an entrance and each exit of the frame (see Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the safety hoods of Torbet's invention to that of Bonnet's diverting mechanism in order to provide for a safety feature for the conveyor system

arrangement and a safer environment for the employee's working with the conveyor system.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet (U.S. Patent number 6,189,702) in view of Torbet et al. (U.S. Patent number 3,246,733) and further in view of Cramer (U.S. Patent number 6,036,128).

Bonnet as modified by Torbet et al., fails to disclose a safety hood comprising an interlock switch for detecting a position of the hoods and providing a signal to a controller for shutting down movement of the movable diverting mechanism when any of the hoods are in an upright position.

Cramer does disclose an interlock switch located for a hood assembly (please read column 3 lines 57-67 and column 4 lines 1-11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the interlocking switch as taught by Cramer to the safety hood of Bonnet as modified by Torbet et al., in order to provide for an automated mechanical stop of the conveyor system for additional safety for when a worker needs to inspect within the hooded area of the conveyor system arrangement.

***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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